

181.853 Acquisition of property.

- (1) The commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of KRS 181.850 to 181.869, within or without the Commonwealth, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction or operation of any bridge, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the city for the use and benefit of the commission.
- (2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown, or unable to convey valid title, the commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements, and other property, including public lands, parks, playgrounds, reservations, highways, or parkways or parts thereof or rights therein, of any person, co-partnership, association, railroad, public service, public utility, or other corporation, or municipality or political subdivision deemed necessary or convenient for the construction or the efficient operation of any bridge or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted in the name of the commission, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the Commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain by cities. Title to any property acquired by the commission shall be taken in the name of the city for the use and benefit of the commission. In any condemnation proceedings the court having jurisdiction of the suit, action, or proceeding may make such orders as may be just to the commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the commission shall impose any liability upon the city or commission except as may be paid from the funds provided under the authority of KRS 181.850 to 181.869.
- (3) If the owner, lessee, or occupier of any property to be condemned shall refuse to remove his or her personal property therefrom or give up possession thereof, the commission may proceed to obtain possession in any manner now or hereafter provided by law.
- (4) With respect to any railroad property or right-of-way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed bridge nor any part thereof, including abutments, columns, supporting structures, and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation, or maintenance

of the trains, tracks, works, or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or rights-of-way, plans and specifications of the proposed bridge showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the department of works of the city whose decision, arrived at after due consideration and with an opportunity to the railroad to be heard, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the department of works of said city as the case may be. A copy of the plans and specifications approved by the railroad or the department of works of said city shall be filed as an exhibit with the petition for condemnation.

- (5) The Commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the commission to be necessary for the construction or operation of any bridge.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 346, sec. 196, effective July 15, 2002. -- Created 1952 Ky. Acts ch. 189, sec. 4, effective June 19, 1952.